

1 have at the moment with regard to
2 construction.

3 JUDGE SIPPEL: All right. Well,
4 you're jumping ahead of me a little bit, but
5 thank you for that response. I'm talking
6 about the organic documents on the corporate
7 structure, corporate direction, that type of
8 thing.

9 MS. KANE: We do have those
10 documents, Your Honor, but as we referenced in
11 our motion to clarify, we do not believe that
12 those documents have any bearing on whether
13 their stations are operating and whether their
14 stations have been constructed.

15 JUDGE SIPPEL: Look, let me tell
16 you where I'm coming from on this: I don't
17 care whether it's a one-issue case. You got
18 to know who the party is that you're suing.
19 I don't know who the party Maritime is until
20 I get this information. I don't care whether
21 it's one issue --

22 MS. KANE: We're happy to obtain

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1 that discovery, Your Honor.

2 JUDGE SIPPEL: Well, I'm glad
3 you're happy because that's what I'm trying to
4 get out. That's all I'm trying to do. I
5 mean, that's all I'm trying to do. And I'm
6 not getting resistance on it, but now I find
7 out that there's an enormous amount of
8 information that came in with the letter of
9 inquiry --

10 MS. KANE: Well --

11 JUDGE SIPPEL: -- that I never
12 thought to ask about. But I'm not being
13 critical of you. Please don't misunderstand
14 me.

15 MS. KANE: No, no, no. I
16 understand, Your Honor. We have those
17 documents and --

18 JUDGE SIPPEL: Yes.

19 MS. KANE: -- we have never said
20 otherwise.

21 JUDGE SIPPEL: No, I know you
22 haven't.

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1 MS. KANE: In terms of whether
2 Maritime has produced them in this case, they
3 have not produced them in this matter because,
4 in reference to discovery requests that would
5 have precipitated that information, we haven't
6 been proceeding with that discovery based on
7 your order in November. We're happy to
8 proceed down that path, but these documents
9 really don't provide anything more than
10 cursory information about who was named a
11 partner or who was named a managing member.

12 JUDGE SIPPEL: You think that's
13 not too important? Who's running the show?
14 I mean --

15 MS. KANE: Well, anybody --

16 JUDGE SIPPEL: -- managing
17 partners are pretty important people.

18 MS. KANE: Well, understood, Your
19 Honor, but --

20 JUDGE SIPPEL: I don't know who
21 they are. That's my problem.

22 MS. KANE: Well, neither does the

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1 Bureau, Your Honor, which is partly why we had
2 an HDO that was directed to the question of
3 who was running the show day-to-day.

4 JUDGE SIPPEL: Yes, but that's
5 where the start is. The start is with the
6 organic documents. And then you get a person
7 on the -- you depose and then you go from
8 there. You can only work with what you have.
9 And this is the first time that I'm seeing
10 what I wanted to see up front. And again,
11 this is not a criticism.

12 Let me ask you this question,
13 please, everybody. You have any objection to
14 you furnishing me a copy of everything having
15 to do with the letter of inquiry or even
16 subsequent letter of inquiries?

17 MS. KANE: I don't think there
18 should be any concern with that, Your Honor.
19 We have the --

20 JUDGE SIPPEL: Mr. Keller?

21 MS. KANE: -- confidentiality
22 agreement, Your Honor.

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1 MR. KELLER: Subject to the
2 confidentiality -- a protective order --

3 MS. KANE: A protective order,
4 yes.

5 JUDGE SIPPEL: Okay. Well, when
6 you get a chance, why don't you package those
7 up and send them down to me?

8 MS. KANE: We can bring those to
9 you today, Your Honor.

10 JUDGE SIPPEL: That will be fine.
11 That will be fine. And that's the end of my
12 inquiry on that.

13 So you said you have a shorter
14 list now of your first item, which is the
15 motion to compel Maritime to respond. You're
16 making some headway on that, if I understand
17 that right.

18 MS. KANE: I think we're making
19 some headway. To be honest, and I feel like
20 in some instances we're taking two steps
21 forward and one step back because the
22 information, at least as to operation, is

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1 constantly changing for Maritime. When we
2 compared, for example, the order that you
3 issued on Monday to previous information that
4 Maritime had either stipulated to or
5 identified in previous filings, the dates are
6 off. There's four or five dates that are
7 inconsistent, and now we're getting new
8 information in the pleading that they filed
9 today.

10 But I think we're at least
11 comfortable providing you with where we stand
12 on the stations that are currently in play.
13 There might be a few here and there that Mr.
14 Keller is going to have an issue with because
15 they're not in the right list, but that's
16 based on the fact that we didn't get that
17 information until this morning.

18 So we're happy to provide that to
19 you, and we have copies for everybody. We're
20 happy to set those out and explain to you what
21 it is that we don't have with regard to
22 certain stations.

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1 JUDGE SIPPEL: Well, that makes
2 sense, I mean, as far as an order of business.

3 Anybody have any objection to
4 that?

5 MR. KELLER: No, Your Honor.

6 JUDGE SIPPEL: Well, do have
7 copies to pass around?

8 MS. KANE: We do.

9 JUDGE SIPPEL: Thank you very
10 much. And while you're doing that, by the
11 way, I failed to introduce a very important
12 part of my team up here, and that's Ms. Denise
13 Villarreal to my right and Ms. Emily Marshall
14 to my further right. And there's no political
15 connotation there at all, please. But Ms.
16 Villarreal is -- she's been declared the
17 office meisterin on the charts, and she's been
18 working quite assiduously on them and
19 unfortunately I'm going to lose her on Friday.
20 So there goes my knowledge. So we'll pick
21 this up right now.

22 MS. KANE: We can walk you through

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1 this. The first category are stations for
2 which Maritime has not provided any current
3 information about whether it is currently
4 operating and offering any type of service, if
5 it's not operating, why it isn't operating,
6 and whether it was operating and offering
7 service at the time it acquired these licenses
8 in 2005. All we've gotten are sort of general
9 statements that as of 2007 none of these
10 licenses were offering any service, but we've
11 got no information before 2007. And we've
12 gotten nothing that confirms that any of these
13 stations are currently operating, or if they
14 haven't been currently operating, when they
15 went off the air.

16 JUDGE SIPPEL: Okay. Can you
17 respond to that briefly, sir?

18 MR. KELLER: Well, I can't respond
19 specifically as to station by station, but
20 what I can say is I can only reiterate what I
21 said in the document that I filed this
22 morning, and that is that I believe, with the

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1 exception of stations that are being used in
2 conjunction with spectrum leases, where the
3 customer, if you will, is the spectrum lessee
4 -- and I don't know which ones -- I mean, I
5 think several of the KAA89 things on here fall
6 under that category.

7 But with that exception, I think
8 what we have stated in interrogatory responses
9 -- and I'll be happy to cobble together a sort
10 of consolidated response focused on these
11 items, you know, based on what we've already
12 said in other places --

13 JUDGE SIPPEL: That would be very
14 helpful.

15 MR. KELLER: But basically, again,
16 I'll reiterate what we said. First of all, we
17 stated that none of these stations -- again,
18 excluding the leased stations -- have been
19 providing service to customers since December
20 of 2007. Okay. That's number one.

21 Now, number two, we said that,
22 nevertheless, the company did not intend to

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1 permanently discontinue, so they maintained --
2 they did not dismantle the stations. They
3 left them in operational status. Not to say
4 they were operating and providing service, but
5 in operational status in the sense that the
6 stations were constructed, connected, able to
7 operate.

8 We then said it is currently --
9 now the stations fall into three categories:
10 Those which we now know are not operational,
11 and for those we have given the dates when
12 they became non-operational and in under what
13 circumstances and why; stations which we know
14 to be or have reasonable belief they're still
15 operational; and some stations, which we quite
16 frankly just don't know because we haven't
17 been able to go out --

18 (Phone rings)

19 MR. KELLER: And so those are the
20 categories. They're either operational, not
21 operational; and where they're not
22 operational, we've provided the date and the

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1 reason, or we don't know. We do know that
2 they haven't been providing service since
3 2007, but we don't know whether they're still
4 operational. And we've spelled out which ones
5 those are. Now there might be a minor
6 discrepancy here or there, which I'll be happy
7 to look at and clarify.

8 Lastly, as to -- I have to go back
9 and look at --

10 JUDGE SIPPEL: You have them
11 identified that way, by the way?

12 MR. KELLER: Pardon me?

13 JUDGE SIPPEL: Do you have each of
14 these stations identified that way, or each of
15 the call signs? --

16 MR. KELLER: I believe so, but
17 apparently it hasn't been made -- I mean, and
18 I'll take responsibility, but apparently it's
19 not clear to the Bureau so that if I say -- I
20 will certainly cobble them together and
21 clarify, but yes.

22 JUDGE SIPPEL: Okay. Thank you.

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1 MR. KELLER: And that was what --
2 I think in a good faith effort that's what we
3 were attempting to convey by these charts, the
4 status of each station. And the status are --
5 first of all, as to all the stations we've
6 maintained and provided what documentation we
7 have, that they're -- they were timely
8 constructed. Okay? So now we're just talking
9 about whether or not the stations are in
10 operation.

11 And we've stated that -- first of
12 all, I believe we stated in some interrogatory
13 response somewhere that they were all in
14 continuous operation up to that -- you know,
15 unless other specifically specified somewhere,
16 up to that December 2007 date. There were a
17 couple where we've given dates earlier than
18 that. I mean, for instance, a couple of
19 towers that blew down in Katrina, or whatever.

20 But we basically said they're not
21 in operation. No service as to then. We've
22 stated which ones are not operational, we've

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1 stated which ones are operational, and we've
2 stated which ones we don't know one way or the
3 other.

4 JUDGE SIPPEL: Yes, that reminds
5 me of a historical figure who identified
6 combat conditions as the known, the unknown
7 and the unknowns that you don't know are the
8 unknowns. And it sounds like you've got the
9 same situation here. You've got --

10 MR. KELLER: Well, I --

11 JUDGE SIPPEL: -- quite a category
12 there.

13 MR. KELLER: We have known and
14 unknown actually in this case, and the knowns
15 fall into two categories: Those we know to be
16 operational and those we not to be
17 operational. And then there's the unknowns
18 where we don't know for sure whether they're
19 still operational.

20 JUDGE SIPPEL: Okay. Now I'm
21 going to ask you two questions: First of all,
22 you mentioned the date 2007, specific ones

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1 that you know about became non-operational.
2 Can you tell me why that is?

3 MR. KELLER: No, no. 2007 was the
4 lack of -- no longer providing service to end
5 users.

6 JUDGE SIPPEL: That's not the same
7 thing as operation?

8 MR. KELLER: Well, but that's the
9 point I'm trying to make. No, they're not.
10 I mean --

11 JUDGE SIPPEL: What does
12 "operational" mean?

13 MR. KELLER: As I've said several
14 times, it means that the station was left --
15 constructed, installed, capable of operation.

16 JUDGE SIPPEL: But never turned
17 the switch on? I'm paraphrasing it.

18 MR. KELLER: No, well, the
19 switches may be on, but I mean, the point --
20 it's running. It's running. It's just that
21 it doesn't have any customers on it.

22 JUDGE SIPPEL: That's the point.

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1 Now and then you just said something before
2 that seems to be inconsistent with what you
3 just said.

4 MR. KELLER: Your Honor, what I'm
5 doing is making a distinction between the
6 station being actively used to serve
7 customers --

8 JUDGE SIPPEL: Yes.

9 MR. KELLER: -- versus a station
10 that is not being actively used to -- who can
11 serve customers, but is nonetheless
12 operational --

13 JUDGE SIPPEL: Yes.

14 MR. KELLER: -- versus a station
15 that is no longer even operational. Those are
16 the three categories.

17 JUDGE SIPPEL: Okay. Let's start
18 with the last one, the ones that are not
19 operational.

20 MR. KELLER: And on those we --

21 JUDGE SIPPEL: I'm sorry, you can
22 identify those or you --

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1 MR. KELLER: We have identified --

2 JUDGE SIPPEL: Now why are they in
3 that state of non-operation?

4 MR. KELLER: And that's what's
5 spelled out in the pleading that I filed this
6 morning and in the early interrogatory
7 responses.

8 JUDGE SIPPEL: Can you give me
9 just a quick --

10 MR. KELLER: In some -- well --

11 JUDGE SIPPEL: Just a --

12 MR. KELLER: Yes.

13 JUDGE SIPPEL: Just a general
14 explanation?

15 MR. KELLER: In most cases it's
16 because -- in these cases the non-operational
17 status occurred within the last year or two.
18 In most cases it's because of an inability to
19 pay utilities and finally the utilities were
20 cut off. And since the utilities are cut off,
21 the station is not operating. It can't
22 operate because they don't have any

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1 electricity.

2 JUDGE SIPPEL: Oh, it's like if I
3 don't pay my electric bill, then I'm going to
4 be without electricity.

5 MR. KELLER: And then your house
6 is without lights. If they shut off your
7 electricity or shut off our telephone
8 connections, then the station's --

9 JUDGE SIPPEL: Right.

10 MR. KELLER: -- not operational.
11 It may be sitting there, but it's not
12 operational.

13 JUDGE SIPPEL: Now my question is,
14 well, why is that happening? The company
15 couldn't afford to pay the bills?

16 MR. KELLER: The company's been in
17 financial straits for some number of years and
18 recently it's gotten to the point --

19 JUDGE SIPPEL: Well, there's two
20 kinds of financial straits. I mean, there's
21 real financial straits and then there's the
22 question of paying the bills, you know, paying

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1 for the lights and the water and all that kind
2 of stuff.

3 MR. KELLER: What happened is,
4 Your Honor, the company, even before it went
5 into bankruptcy, the company has had financial
6 difficulties maintaining expenses all along.

7 JUDGE SIPPEL: Well, why did it
8 wait this long to go into bankruptcy?

9 MR. KELLER: They've been hoping
10 to cut deals. They made several deals to sell
11 the licenses, to do leases. I mean, let me
12 just give you a little bit of the history; and
13 I know --

14 JUDGE SIPPEL: Okay.

15 MR. KELLER: -- Ms. Kane doesn't
16 want to get into testimony here, but for
17 example, when these stations were purchased by
18 Maritime -- this --

19 JUDGE SIPPEL: And the date?

20 MR. KELLER: -- financial
21 difficulty goes all the way back to --

22 JUDGE SIPPEL: This is mostly

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1 when? When's the dates that most of those
2 purchases were?

3 MR. KELLER: No, but they were all
4 -- Maritime acquired these licenses from
5 Mobex.

6 JUDGE SIPPEL: Mobex?

7 MR. KELLER: I think it was late
8 -- I think it closed in early 2006 was the --

9 JUDGE SIPPEL: What are you
10 showing there?

11 MS. VILLARREAL: They were
12 assigned in June of 2005 and February 2007.

13 JUDGE SIPPEL: Bought from Mobex
14 to you?

15 MS. VILLARREAL: From Mobex to
16 Maritime.

17 JUDGE SIPPEL: Mobex to Maritime?

18 MR. KELLER: February 2006 might
19 have been the closing date, but -- because
20 there were not two different assignments that
21 I'm aware of.

22 MS. VILLARREAL: That's the action

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1 date on the ULS.

2 MR. KELLER: 2007? I'm not aware
3 of anything. I'll have to check that. I'm
4 not aware of anything in 2007.

5 JUDGE SIPPEL: Well, it's a filing
6 with the Commission.

7 MS. VILLARREAL: It's just the
8 date that they have, as far as when the
9 application was consummated, or the assignment
10 was consummated.

11 MR. KELLER: 2007? I don't --

12 MS. KANE: 2007 doesn't sound --

13 MR. KELLER: Doesn't sound right.

14 MS. KANE: -- consistent.

15 MR. KELLER: But at any rate,
16 here's my point: The site-based licenses were
17 acquired by Maritime and the closing date was
18 early -- the application was in late 2005. It
19 was granted in late 2005. I think the closing
20 date was early 2006. At that point, as a
21 condition to that closing -- because Mobex was
22 already in financial difficulty in terms of

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